

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

THOMAS JOSEPH DUNPHY JR.,

Petitioner,

No. CIV S-04-2623 DFL KJM P

vs.

DAVID L. RUNNELS,

Respondent.

ORDER

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Petitioner, a state prisoner proceeding pro se, has filed an application for a writ of habeas corpus under 28 U.S.C. § 2254. On March 9, 2006, the court recommended that this action be dismissed due to petitioner's failure to file an opposition or a statement of non-opposition to respondent's July 18, 2005 motion to dismiss. Petitioner has filed objections to the March 9, 2006 findings and recommendations in which petitioner indicates that he never received a copy of respondent's motion to dismiss or the court's October 12, 2005 order directing petitioner to either file an opposition or a statement of non-opposition. In light of petitioner's filing, the court will place a temporary hold on the findings and recommendations and provide petitioner an opportunity to file an opposition to the motion to dismiss.

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1 Good cause appearing, IT IS HEREBY ORDERED that:

2 1. Respondent shall re-serve a copy of his July 18, 2005 motion to dismiss upon
3 petitioner and file a certificate of service with the court; and

4 2. Petitioner shall file an opposition or a statement of non-opposition to the
5 motion to dismiss within thirty days of service of the motion. If petitioner fails to comply with
6 this order, the court will submit March 9, 2006 findings and recommendations to the district
7 court judge assigned to this case for consideration.

8 DATED: March 28, 2006.

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11 UNITED STATES MAGISTRATE JUDGE
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